

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

MAXINE BEASLEY,

Plaintiff,

vs.

TOOTSIE ROLL INDUSTRIES,

Defendant.

CASE NO. 21-cv-01297-YGR

**ORDER GRANTING IN PART AND DENYING
IN PART MOTION TO REMAND AND
DENYING MOTION TO DISMISS AS MOOT**


Re: Dkt. Nos. 9, 17

On January 25, 2021, plaintiff filed this action in Alameda County Superior Court. Defendant removed the case to federal court on February 23, 2021. (Dkt. Nos. 1–4.) On March 2, 2021, defendant filed a motion to dismiss the complaint under Federal Rule 12(b)(6). (Dkt. No. 9.) On March 9, 2021, plaintiff filed a motion to remand based on the lack of subject matter jurisdiction. (Dkt. No. 17.) Having carefully considered the briefing and arguments submitted on the motion, and for the reasons stated on the record at the April 13, 2021 hearing, the Court **GRANTS** plaintiff's motion to remand the case to state court, **DENIES** the request for attorney's fees incurred by the motion to remand, and **DENIES AS MOOT** defendant's motion to dismiss. In light of *McGee v. S-L Snacks Nat'l*, 982 F.3d 700 (9th Cir. 2020), plaintiff fails to allege an injury in fact sufficient for Article III standing. Accordingly, the Court is without subject matter jurisdiction. *See Polo v. Innoventions Int'l, LLC*, 833 F.3d 1193, 1194 (9th Cir. 2016) ("We hold that upon determining that it lacked jurisdiction, the district court should have remanded the case to state court pursuant to 28 U.S.C. [Section] 1447(c).").

The Clerk of the Court is directed to **REMAND** the case to the Alameda County Superior Court and close the file.

IT IS SO ORDERED.

Dated: April 16, 2021


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE